



DIVISION OF DEVELOPMENTAL DISABILITIES
Olympia, Washington

TITLE: WPAS ACCESS TO CLIENT RECORDS POLICY 13.04
MAINTAINED BY DDD

AUTHORITY: 42 U.S.C. Chapter 144 sec. 15003, et seq. (as amended) Developmental
Disabilities Assistance and Bill of Rights Act of 1975
45 CFR 1385-1386
RCW 71A.10.080
2000 Access Agreement between WPAS and DDD/DSHS

PURPOSE

This policy establishes guidelines for complying with the 2002 Access Agreement negotiated by the Division of Developmental Disabilities (DDD) and Washington Protection and Advocacy System (WPAS). The Access Agreement provides WPAS access to the records of division clients for the purpose of monitoring, advocacy and investigation of alleged violations of rights, abuse, neglect, abandonment, or exploitation.

SCOPE

This policy applies to Field Services and State Operated Living Alternative (SOLA) employees and to records maintained by DDD which are associated with individuals with developmental disabilities living outside of the Residential Habilitation Centers (RHCs).

DEFINITIONS

Allen Class Member means any DDD enrolled individual who was at Western State Hospital on or after June 1, 1997.

Individual with a developmental disability is a person who has applied for, is, or has ever been determined eligible for services from DDD. This includes persons who have died or whose current whereabouts are unknown.

Marr Class Member means any DDD enrolled individual who was at Eastern State Hospital on or after December 2, 1999.

Probable cause means reasonable grounds for belief that a DDD client has been or may be subject to abuse or neglect. The individual making such determination may base the decision on reasonable inferences drawn from his/her experience or training regarding similar incidents, conditions or problems that are usually associated with abuse and neglect.

Records include client information in the possession of DDD. This includes reports prepared by any state employee or reports prepared by an agency charged with investigating reports of incidents of abuse, neglect, injury, or death, which describe incidents of abuse, neglect, injury, or death occurring at a facility, investigative documents and discharge planning records.

WPAS is an acronym for Washington Protection and Advocacy System, Inc., a federally mandated agency that advocates for persons with developmental disabilities.

POLICY

DDD staff will assist and support WPAS access to the DDD records of individuals with developmental disabilities living outside of RHCs and provide WPAS with requested records and information in accordance with governing law [42 U.S.C. Chapter 144, sec. 15003] and the 2000 Access Agreement between WPAS and DDD/DSHS. This policy also governs access to records for Allen or Marr class members.

PROCEDURES

A. WPAS has agreed to the following procedures when requesting access to records:

1. To provide a valid, written consent from the DDD client or his/her legal representative, or state that there is “probable cause” as defined in the “Definitions” section of this policy;

For Allen or Marr class members, WPAS is not required to obtain nor provide DDD with a written consent.

2. No written consent is needed if probable cause has been determined to exist and:
 - a. The individual with developmental disabilities has no legal representative;
or

- b. The individual with developmental disabilities is unable to authorize the system to have access;
 3. To identify themselves by showing a WPAS photo identification badge;
 4. Inform DDD staff of the purpose and role of WPAS;
 5. Not to remove original records;
 6. To limit copying requests to records which WPAS considers necessary for the investigation; and
 7. To allow DDD staff to be present when records are reviewed.
- B. DDD has agreed to the following when WPAS has presented written consent or probable cause and has requested access to records, or if the client is an Allen or Marr class member:**
1. Provide the name, address and telephone number of legal representatives by 5:00 p.m. of the business day following a request;
 2. Schedule an appointment with WPAS to review the specified records within two (2) working days of the request;
 3. Set the appointment for reviewing these records within five (5) working days of the original request;
 4. Charge no more than fifteen cents (\$0.15) per page for copies of any records and to provide these copies at the time of the visit. If this is not feasible, copies will be provided no later than ten (10) working days following the request.
 5. Not to charge for any services other than copying costs for records DDD is required to provide.

Staff should use DSHS 15-252, WPAS Access Request Checklist, to document WPAS Access requests.

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EXCEPTIONS

None.

SUPERSESSION

Division Policy 13.04
Issued April 28, 1998

Approved: /s/ Linda Rolfe
Director, Division of Developmental Disabilities

Date: 11/30/2004